

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

OSCAR COLMENARES-GONZALEZ,

Defendant.

CASE NO. 8:08CR151

TENTATIVE FINDINGS

The Court has received the Modified Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 135). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant did not submit any objections to the probation officer as required under ¶ 4 of the Order on Sentencing Schedule (Filing No. 124). For this reason and because the objections now filed with the Court do not affect the sentencing guideline range, they are denied. The request for a sentence of probation may be raised at sentencing.

IT IS ORDERED:

1. The Defendant's objections to the PSR are denied;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 8th day of September, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge